

Reservist returns to new battle

Fired employee sues to ensure job rights

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WASHINGTON — Capt. Karl H. Zerbst Jr. may have been thousands of miles from his family and home, loading ships at the Port of Damman under the hot desert sun, but at least there were no worries about the job waiting for him in Charleston.

Or so he thought.

When Zerbst — a member of the Army Reserve's 1189th Terminal Transportation Unit — returned to his civilian post as controller of Unicon Tri-County Inc. on Nov. 19, he lasted less than an hour.

Zerbst said he was taken aside and informed that, due to company restructuring prompted by the national economic recession, he was being fired from the job he had held since January 1990.

Reasoning that he was protected by a federal law designed to ensure returning reservists get their jobs back, Zerbst decided to fight the dismissal.

Efforts to resolve the matter since November have failed, and, this week, the Pentagon asked the Justice Department to enter the fray. If necessary, relief will be sought in federal court, said Van Hipp, deputy assistant secretary of the Army for reserve forces and mobilization, and a South Carolina native.

In a letter to U.S. Attorney E. Bart Daniel, Hipp says that, to date, "not one federal lawsuit has had to be filed to get a reservist's job back."

"As you know, the federal courts have a long history of interpreting the Veterans Re-employment Rights Law in favor of the reservists called to active duty," Hipp says.



Zerbst

Thursday, Daniel said most reservists' jobs are protected under the law, adding that his office would try to work out the problem with Unicon Tri-County.

"This is the first case that I know of (in South Carolina) where it comes down to this," he said, "but if we have to we'll file suit tomorrow."

Chester C. Miller Jr., president of Unicon operations in the Carolinas, said 18 people lost jobs in the restructuring, including the former president of the South Carolina branch. Zerbst was the only reservist, he said.

Unicon is a ready-mix concrete company based in Denmark that employs about 250 people in North and South Carolina.

"It's regretful we have to eliminate any positions, but we have to be equally fair with everyone," Miller said. "We have to be fair across the board."

"I feel bad, especially in the case of Karl, because I considered him to be a friend, and still do," he said. "It's not only the employee involved, it's also the families."

Miller said Unicon checked before firing Zerbst to make sure it was not violating federal law. "The job no longer exists," he said. "That falls within the federal guidelines."

Zerbst, 31, said his Charleston-based unit was activated June 12. After training at Fort Jackson in Columbia, the unit left for Saudi Arabia July 14, where it helped load Army and Air Force equipment used in the Persian Gulf War on U.S.-bound ships, he said.

Zerbst returned to Charleston Oct. 29, spent more time at Fort Jackson, and reported for work Nov. 19, he said.

While he was overseas, Zerbst said, the Unicon president who hired him was replaced by current president Miller. Zerbst said Miller met with his wife in August and assured her his job was safe.

Miller told The Post and Courier he wanted to break the news to Zerbst directly. Further, if Zerbst had not been a reservist, "the termination of the position would have taken place a month or so earlier," Miller said.

"His reason for letting me go was 'restructuring,'" Zerbst said. "I guess I wasn't there more than 15 minutes. We went into the office and he explained the situation to me. He was sorry."

Zerbst said he told Miller he would contest the dismissal. "I've got a brand new house and a 10-month-old daughter to provide for," he said.

In a Dec. 3 letter to Hipp, Zerbst also says, "I find myself unemployed in the midst of a sluggish economy. I had requested to remain with Unicon for several months to give me an opportunity to market myself and hence seek other employment."

Miller said, "We really didn't have that flexibility."

Besides the loss of income, Zerbst said, he lost his company car. Unicon did provide him with a letter of recommendation and a month's severance pay, he said.

Miller also said he would initiate personal contact to help Zerbst find another job.

Zerbst said the matter likely will be resolved with a settlement, rather than by the government's forcing Unicon to give him his job back. The latter scenario would not be productive for himself or the company, he said.

Hipp said he was "very concerned and troubled," particularly since the situation arose over the holiday season.

In the meantime, he said, Army reservists who were called up because of the Persian Gulf War and have been turned down by their employers need only give his office a call.

"We'll either get it straightened out, or we'll bring them back on active duty until the issue is settled," he said. "Making sure they have a paycheck is the least we can do at Christmas."

Terry Joyce of The Post and Courier staff also contributed to this story.